

SEP 17 1985

RENT ORDINANCE AS OF NOVEMBER 19, 1984.

FILE NO. 188-79

UNIVERSITY OF CALIFORNIA
ORDINANCE NO. 276-79

AN EMERGENCY ORDINANCE AMENDING THE SAN FRANCISCO ADMINISTRATIVE CODE BY ADDING CHAPTER 37 THERETO TO ESTABLISH A RENTAL STABILIZATION AND ARBITRATION BOARD AND PRESCRIBING THE DUTIES AND POWERS THEREOF; SETTING FORTH GUIDELINES FOR RENTAL INCREASES; CREATING A CITIZENS' HOUSING TASK FORCE; PROVIDING FOR TERMINATION DATE.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Administrative Code is hereby amended by adding Chapter 37 thereto reading as follows:

CHAPTER 37

RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCESec. 37.1 Title & Findings

(a) This chapter shall be known as the Residential Rent Stabilization and Arbitration Ordinance.

(b) The Board of Supervisors hereby finds:

(1) There is a shortage of decent, safe and sanitary housing in the City and County of San Francisco resulting in a critically low vacancy factor.

(2) Tenants displaced as a result of their inability to pay increased rents must relocate but as a result of such housing shortage are unable to find decent, safe and sanitary housing at affordable rent levels. Aware of the difficulty in finding decent housing, some tenants attempt to pay requested rent increases, but as a consequence must expend less on other

necessities of life. This situation has had a detrimental effect on substantial numbers of renters in the City, especially creating hardships on senior citizens, persons on fixed incomes and low and moderate income households.

(3) The problem of rent increases reached crisis level in the spring of 1979. At that time the Board of Supervisors conducted hearings and caused studies to be made on the feasibility and desirability of various measures designed to address the problems created by the housing shortage.

(4) In April, 1979, pending development and adoption of measures designed to alleviate the City's housing crisis, the Board of Supervisors adopted Ordinance No. 181-79 prohibiting most rent increases on residential rental properties for 60 days. Ordinance No. 181-79 is scheduled to expire no later than June 30, 1979.

(5) The provisions of Ordinance No. 181-79 have successfully reduced the rate of rent increases in the City, along with the concomitant hardships and displacements. However, a housing shortage still exists within the City and County of San Francisco and total deregulation of rents at this time would immediately lead to widespread exorbitant rent increases and recurrence of the crisis, problems and hardships which existed prior to the adoption of the moratorium measure.

1 (6) This ordinance shall be in effect for fifteen
2 (15) months. During this time, a Citizens' Housing
3 Task Force shall be created to conduct a further
4 study of and make recommendations for, the problems
5 of housing in San Francisco. In the interim, some
6 immediate measures are needed to alleviate San
7 Francisco's housing problems. This ordinance,
8 therefore, creates a Residential Rent Stabilization
9 and Arbitration Board in order to safeguard tenants
10 from excessive rent increases and, at the same time,
11 to assure landlords fair and adequate rents
12 consistent with Federal Anti-Inflation Guidelines.

13 [Sec. 37.2 Amended by Ord. #20-84 effective February 19, 1984]

14 Sec. 37.2 Definitions.

15 (a) Base Rent. That rent which is charged a tenant upon
16 initial occupancy plus any rent increase allowable and imposed
17 under this chapter; provided, however, that base rent shall not
18 include increases imposed pursuant to Section 37.7 below or
19 utility passthroughs pursuant to Section 37.2(o) below. Base
20 rent for tenants of RAP rental units in areas designated on or
21 after July 1, 1977 shall be that rent which was established
22 pursuant to Section 32.73-1 of the San Francisco Administrative
23 Code. Rent increases attributable to the Chief Administrative
24 Officer's amortization of a RAP loan in an area designated on or
25 after July 1, 1977 shall not be included in the base rent.

26 (b) Board. The Residential Rent Stabilization and
27 Arbitration Board.

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1 (c) Capital Improvements. Those improvements which
2 materially add to the value of the property, appreciably prolong
3 its useful life, or adapt it to new uses, and which may be
4 amortized over the useful life of the improvement of the building.

5 (d) CPI. Consumer Price Index for all Urban Consumers
6 for the San Francisco-Oakland Metropolitan Area, U.S. Department
7 of Labor.

8 (e) Energy Conservation Measures. Work Performed pursuant
9 to the requirements of Article 12 of the San Francisco Housing
10 Code.

11 (f) Hearing Officer. A person, designated by the board,
12 who arbitrates rental increase disputes.

13 (g) Housing Services. Services provided by the landlord
14 connected with the use or occupancy of a rental unit including,
15 but not limited to, repairs, replacement, maintenance, painting,
16 light, heat, water, elevator service, laundry facilities and
17 privileges, janitor service, refuse removal, furnishings,
18 telephone, parking and any other benefits, privileges or
19 facilities.

20 (h) Landlord. An owner, lessor, sublessor, who receives
21 or is entitled to receive rent for the use and occupancy of any
22 residential rental unit or portion thereof in the City and County
23 of San Francisco, and the agent, representative or successor of
24 any of the foregoing.

25 (i) Member. A member of the Residential Rent
26 Stabilization and Arbitration Board.

27 (j) Rap. Residential Rehabilitation Loan Program
28 (Chapter 32, San Francisco Administrative Code).

1 (k) RAP Rental Units. Residential dwelling units subject
2 to RAP loans pursuant to Chapter 32, San Francisco Administrative
3 Code.

4 (l) Real Estate Department. A city department in the
5 City and County of San Francisco.

6 (m) Rehabilitation Work. Any rehabilitation or repair
7 work done by the landlord with regard to a rental unit, or to the
8 common areas of the structure containing the rental unit, which
9 work was done in order to be in compliance with State or local
10 law, or was done to repair damage resulting from fire, earthquake
11 or other casualty or natural disaster.

12 (n) Rent. The consideration, including any bonus,
13 benefits or gratuity, demanded or received by a landlord for or
14 in connection with the use or occupancy of a rental unit, or the
15 assignment of a lease for such a unit, including but not limited
16 to monies demanded or paid for parking, furnishings, food
17 service, housing services of any kind, or subletting.

18 (o) Rent Increases. Any additional monies demanded or
19 paid for rent as defined in item (n) above, or any reduction in
20 housing services without a corresponding reduction in the monies
21 demanded or paid for rent; provided, however, that where the
22 landlord has been paying the tenant's utilities and cost of those
23 utilities increase, the landlord's passing through to the tenant
24 of such increased costs does not constitute a rent increase.

25 (p) Rental Units. All residential dwelling units in the
26 City and County of San Francisco together with the land and
27 appurtenant buildings thereto, and all housing services,
28 privileges, furnishings and facilities supplied in connection

1 with the use or occupancy thereof, including garage and parking
2 facilities. The term shall not include:

- 3 (1) housing accommodations in hotels, motels, inns,
4 tourist houses, rooming and boarding houses, provided
5 that at such time as an accommodation has been occupied
6 by a tenant for thirty-two (32) continuous days or more,
7 such accommodation shall become a rental unit subject to
8 the provisions of this chapter; provided further, no
9 landlord shall bring an action to recover possession of
10 such unit in order to avoid having the unit come within
11 the provisions of this chapter. An eviction for a
12 purpose not permitted under Sec. 37.9(a) shall be deemed
13 to be an action to recover possession in order to avoid
14 having a unit come within the provisions of this chapter;
- 15 (2) dwelling units in non-profit cooperatives owned,
16 occupied and controlled by a majority of the residents;
- 17 (3) housing accommodations in any hospital, convent,
18 monastery, extended care facility, asylum, non-profit
19 home for the aged, or in dormitories owned and operated
20 by an institution of higher education, a high school, or
21 an elementary school;
- 22 (4) dwelling units whose rents are controlled or
23 regulated by any government unit, agency or authority,
24 excepting those unsubsidized and/or unassisted units
25 which are insured by the United States Department of
26 Housing and Urban Development;

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- 1 (5) owner-occupied buildings containing four (4)
2 residential rental units or less, wherein owner has
3 resided for at least six continuous months;
4 (6) rental units located in a structure for which a
5 certificate of occupancy was first issued after the
6 effective date of this ordinance;
7 (7) dwelling units in a building which has undergone
8 substantial rehabilitation after the effective date of
9 this ordinance; provided, however, that RAP rental units
10 are not subject to this exemption.

11 (q) Substantial Rehabilitation. The renovation,
12 alteration or remodeling of residential units of 50 or more years
13 of age which have been condemned or which do not qualify for
14 certificates of occupancy or which require substantial renovation
15 in order to conform the building to contemporary standards for
16 decent, safe and sanitary housing. Substantial rehabilitation
17 may vary in degree from gutting and extensive reconstruction
18 extensive improvements that cure substantial deferred
19 maintenance. Cosmetic improvements alone such as painting,
20 decorating and minor repairs, or other work which can be
21 performed safely without having the unit vacated do not qualify
22 as substantial rehabilitation.

23 (r) Tenant. A person entitled by written or oral
24 agreement, sub-tenancy approved by the landlord, or by suffrage,
25 to occupy a residential dwelling unit to the exclusion of others.

26 (s) Utilities. The term "utilities" shall refer to gas
27 and electricity exclusively.

1 [Sec. 37.3 Amended by Ord. #20-84 effective February 19, 1984]

2 Sec. 37.3.A. Rent Limitations.

3 (a) Rent Increase Limitations for Tenants in Occupancy.

4 Landlords may impose rent increases upon tenants in occupancy
5 only as provided below:

6 (1) Annual Rent Increase. On March 1 of each year, the
7 Board shall publish the increase in the CPI for the
8 preceding 12 months, as made available by the U.S.
9 Department of Labor. A landlord may impose annually a
10 rent increase which does not exceed a tenant's base rent
11 by more than 60% of said published increase. In no
12 event, however, shall the allowable annual increase be
13 less tha 4% or greater than 7%.

14 (2) Banking. A landlord who refrains form imposing an
15 annual rent increase or any portion thereof may
16 accumulate said increase and impose that amount on the
17 tenant's subsequent rent increase anniversary dates. A
18 landlord who, between April 1, 1982 and February 29,
19 1984, has banked an annual 7% rent increase (or rent
20 increases) or any portion thereof may impose the
21 accumulated increase on the tenant's subsequent rent
22 increase anniversary dates.

23 (3) Capital Improvements, Rehabilitation, and Energy
24 Conservation Measures. A landlord may impose rent
25 increases based upon the cost of capital improvements,
26 rehabilitation or energy conservation measures provided
27 that such costs are certified pursuant to Section 37.7
28 below.

1 (4) Utilities. A landlord may impose increases based
2 upon the cost of utilities as provided in Section
3 37.2(o) above.

4 (5) RAP Loans. A landlord may impose rent increases
5 attributable to the Chief Administrative Officer's
6 amortization of the RAP loan in an area designated on or
7 after July 1, 1977 pursuant to Chapter 32 of the San
8 Francisco Administrative Code.

9 (6) Additional Increases. A landlord who seeks to
10 impose any rent increase which exceeds those permitted
11 above shall petition for a rental arbitration hearing
12 pursuant to Section 37.8 of this chapter.

13 (b) Notice of Rent Increase for Tenants in Occupancy. On
14 or before the date upon which a landlord gives a tenant legal
15 notice of a rent increase, the landlord shall inform the tenant,
16 in writing, of the following:

17 (1) Which portion of the rent increase reflects the
18 annual increase;

19 (2) Which portion of the rent increase reflects a
20 banked amount, if any, pursuant to Section 37.3A(a)(2);

21 (3) Which portion of the rent increase reflects costs
22 for capital improvements, rehabilitation, or energy
23 conservation measures certified pursuant to Section 37.7;

24 (4) Which portion of the rent increase reflects the
25 passthrough of charges for gas and electricity, which
26 charges shall be explained;

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(5) Which portion of the rent increase reflects the amortization of the RAP loan, as described in Section 37.3A(a)(5) above.

(6) Nonconforming Rent Increases. Any rent increase which does not conform with the provisions of this section shall be null and void.

Sec. 37.4. Establishment; Appointment; Terms; Executive Secretary; Funding; Compensation.

(a) There is hereby established a board to be known as the San Francisco Residential Rent Stabilization and Arbitration Board (hereinafter called "board"), consisting of five (5) members. Members, each of whom shall have a specific alternate having the same qualifications as the member, shall serve at the pleasure of the Mayor. All members and alternates shall be appointed by the Mayor.

(b) The board shall consist of two (2) landlords, two (2) tenants, and one (1) person who is neither a landlord nor a tenant and who owns no residential rental property and an alternate for each specific member. All members shall be residents of the City and County of San Francisco.

(c) In accordance with applicable state law, all members shall disclose all present holdings and interests in real property, including interests in corporations, trusts or other entities with real property holdings.

(d) All members shall be appointed by the Mayor to serve fifteen (15) month terms. All vacancies occurring during a term shall be filled for the unexpired term.

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1 (e) Commencing with the date upon which the first members
2 take office, the board shall elect a chairman and vice-chairman
3 from among its members.

4 (f) The position of executive secretary to the board
5 shall be established pursuant to and subject to Charter Sections
6 3.500 and 8.200. The person occupying the position of executive
7 secretary shall be appointed by the chairman of the board with
8 the approval of a majority of the members. All staff personnel
9 shall be under the immediate direction and supervision of the
10 executive secretary.

11 (g) Pursuant to the budgetary and fiscal provisions of
12 the Charter, the board of supervisors shall provide funds to pay
13 for staff personnel, services and facilities as may be reasonably
14 necessary to enable the board to exercise its powers and perform
15 its duties under this chapter. A special fund to be known as the
16 Residential Rent Stabilization and Arbitration Fund shall be
17 established under the supervision and direction of the board for
18 the receipt of fees under this chapter, such fees to be
19 appropriated by the Board of Supervisors for the operation of the
20 board.

21 (h) Subject to the budgetary and fiscal limitations of
22 the Charter, each member shall be paid \$75 per Commission meeting
23 attended if the meeting lasts for 6 hours or more in a single 24
24 hour period. The Commission shall adopt rules to allow for
25 payment of an equitable portion of this per diem if a meeting
26 lasts less than six hours. Total per diem shall not exceed \$750
27 per month. In addition, each member may receive reimbursement
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1 for actual expenses incurred in the course and scope of the
2 member's duties.

3 Sec. 37.5. Meetings of the Board.

4 (a) Time and Place of Meetings. The board shall meet as
5 often as necessary to stay current with the workload but in no
6 event less than once a month. The time and place of meetings
7 shall be determined by rules adopted by the board. The first
8 meeting shall be held within fifteen (15) days of the appointment
9 of the first board. The matter of establishing standards for the
10 selection of hearing officers shall be considered at the first
11 meeting.

12 (b) Quorum. A quorum for the transaction of official
13 business shall consist of a majority of the total board members.
14 No action may be taken by the board at any meeting attended by
15 less than the quorum. A decision by the board shall require a
16 majority of all of the members of the board.

17 (c) Special Meetings. The board may hold special
18 meetings in accordance with Charter Section 3.500.

19 (d) Meetings Open and Public. All meetings of the board
20 shall be open and public in accordance with the Charter and
21 applicable state law.

22 [Sec. 37.6 Amended by Ord. #20-84 effective February 19, 1984].

23 Sec. 37.6 Powers and Duties. In addition to other powers and
24 duties set forth in this chapter, and in addition to powers under
25 the Charter, the board shall have the power to:

26 (a) Promulgate policies, rules and regulations to
27 effectuate the purposes of this chapter;

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1 (b) Hire such staff, including hearing officers, as may
2 be reasonably necessary to perform its functions, and promulgate
3 standards for all such staff, subject to the Civil Service
4 provisions of the Charter;

5 (c) Conduct rental arbitration hearings and administer
6 oaths and affirmations in connection with such hearings;

7 (d) Publish, on March 1 of each year, the increase in the
8 CPI for the preceding 12 months, as made available by the U.S.
9 Department of Labor.

10 (e) Make studies and surveys and conduct such hearings as
11 necessary to perform its functions;

12 (f) Report bi-annually to the mayor and the board of
13 supervisors on its activities and on progress made towards the
14 achievement of the purposes of the chapter;

15 (g) Make available to the public, on request, policies,
16 rules and regulations, reports and surveys in accordance with
17 applicable state law;

18 (h) Issue rules and regulations for the conduct of its
19 own affairs;

20 (i) Be empowered to request and, if granted, to receive
21 funds appropriated by the Board of Supervisors through the mayor.

22 [Sec. 37.7 Amended by Ord. #438-83 effective October 2, 1983]

23 Sec. 37.7. Certification of Rental Increases for Capital
Impovements, Rehabilitation and Energy Coservation Measures.

24 (a) Authority. In accordance with such guidelines as the
25 board shall establish, the board and designated hearing officers
26 shall have the authority to conduct hearings in order to certify
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1 rental increases to the extent necessary to amortize the cost of
2 capital improvements, rehabilitation, and energy conservation
3 measures. Costs determined to be attributable to such work shall
4 be amortized over a period which is fair and reasonable for the
5 type and the extent of the work and which will provide an
6 incentive to landlords to maintain, improve and renovate their
7 properties while at the same time protecting tenants from
8 excessive rent increases. Costs attributable to routine repair
9 and maintenance shall not be certified.

10 (b) Requirements for Certification. The board and
11 designated hearing officers may only certify the costs of capital
12 improvements, rehabilitation, and energy conservation measures
13 where the following criteria are met:

- 14 (1) The landlord completed capital improvements or
15 rehabilitation on or after April 15, 1979, or the
16 landlord completed installation of energy
17 conservation measures on or after July 24, 1982 and
18 has filed a proof of compliance with the Bureau of
19 Building Inspection in accordance with the
20 requirements of Section 1207(d) of the Housing Code;
- 21 (2) The landlord has not yet increased the rent or
22 rents to reflect the cost of said work;
- 23 (3) The landlord has not been compensated for the
24 work by insurance proceeds;
- 25 (4) The building is not subject to a RAP loan in a
26 RAP area designated prior to July 1, 1977.

27 (c) Amortization and Cost Allocation. The board shall
28 establish amortization periods and cost allocation formulas.

1 Costs shall be allocated to each unit according to the benefit of
2 the work attributable to such unit.

3 (d) Estimator. The board or its Executive Secretary may
4 hire an estimator where an expert appraisal is required.

5 (e) Filing Fee. The board shall establish a filing fee
6 based upon the cost of the capital improvement, rehabilitation,
7 or energy conservation measures being reviewed. Such fees will
8 pay for the costs of an estimator and the administrative overhead
9 of the Board in connection therewith.

10 (f) Application Procedure.

11 (1) Filing. Landlords who seek to pass through the
12 costs of capital improvements, rehabilitation, or
13 energy conservation measures must file an application
14 on a form prescribed by the board. The application
15 shall be accompanied by such supporting materials as
16 the board shall prescribe. All applications must be
17 submitted with the filing fee established by the
18 board.

19 (2) Filing Date. Applications must be filed prior
20 to the mailing or delivery of legal notice of a rent
21 increase to the tenants of units for which the
22 landlord seeks certification.

23 (3) Effect of Filing Application. Upon the filing
24 of the application, the requested increases will be
25 inoperative until such time as the hearing officer
26 makes findings of fact at the conclusion of the
27 certification hearing.

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1 (4) Notice to Parties. The board shall calendar the
2 application for hearing before a designated hearing
3 officer and shall give written notice of the date to
4 the parties at least 10 days prior to the hearing.

5 (g) Certification Hearings.

6 (1) Time of Hearing. The hearing shall be held
7 within 45 days of the filing of the application.

8 (2) Consolidation. To the greatest extent possible,
9 certification hearings with respect to a given
10 building shall be consolidated. Where a landlord
11 and/or tenant has filed a petition for hearing based
12 upon the grounds and under the procedure set forth in
13 Section 37.8, the board may, in its discretion,
14 consolidate certification hearings with hearings on
15 Section 37.8 petitions.

16 (3) Conduct of Hearing. The hearing shall be
17 conducted by a hearing officer designated by the
18 board. Both parties may offer such documents,
19 testimony, written declarations or other evidence as
20 may be pertinent to the proceedings. Burden of proof
21 is on the landlord. A record of the proceedings must
22 be maintained for purposes of appeal.

23 (4) Determination of the Hearing Officer. In
24 accordance with the board's amortization schedules
25 and cost allocation formulas, the hearing officer
26 shall make findings as to whether or not the proposed
27 rent increases are justified based upon the following
28 considerations:

1 (A) The application and its supporting
2 documentation.

3 (B) Evidence presented at the hearing
4 establishing both the extent and the cost of the work
5 performed

6 (C) Estimator's report, where such report has
7 been prepared.

8 (D) Any other such relevant factors as the board
9 shall specify in Rules and Regulations.

10 (5) Findings of Fact. The hearing officer shall
11 make written findings of fact, copies of which shall
12 be mailed within 30 days of the hearing.

13 (6) Payment or Refund of Rents to Implement
14 Certification Decision. If the hearing officer finds
15 that all or any portion of the heretofore inoperative
16 rent increase is justified, the tenant shall be
17 ordered to pay the landlord that amount. If the
18 tenant has paid an amount to the landlord which the
19 hearing officer finds unjustified, the hearing
20 officer shall order the landlord to reimburse the
21 tenant said amount.

22 (7) Finality of Hearing Officer's Decision. The
23 decision of the hearing officer shall be final unless
24 the board vacates his or her decision on appeal.

25 (8) Appeals. Either party may file an appeal of the
26 hearing officer's decision with the board. Such
27 appeals are governed by Section 37.8(f) below.

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1 [Sec. 37.8 Amended by Ord. #438-83 effective October 2, 1983]

2 Section 37.8. Arbitration of Rental Increase Adjustments.

3 (a) Authority of Board and Hearing Officers. In
4 accordance with such guidelines as the board shall establish, the
5 board and designated hearing officers shall have the authority to
6 arbitrate rental increase adjustments and to administer the rent
7 increase protest procedures with respect to RAP rental units as
8 set forth in Chapter 32 of the San Francisco Administrative Code.

9 (b) Request for Arbitration.

10 (1) Landlords. Landlords who seek to impose rent
11 increases which exceed the limitations set forth in
12 Section 37.3(a) above must request an arbitration
13 hearing as set forth in this section. Burden of
14 proof is on the landlord.

15 (2) Tenants.

16 (a) Notwithstanding Section 37.3, tenants of
17 non-RAP rental units and tenants of RAP rental
18 units in areas designated on or after July 1, 1977
19 may request arbitration hearings where a landlord
20 has substantially decreased services without a
21 corresponding reduction in rent and/or has failed
22 to perform ordinary repair and maintenance under
23 state or local law and/or has failed to provide the
24 tenant with a clear explanation of the charges for
25 gas and electricity passed through to the tenant.
26 Burden of proof is on the tenant.

27 (b) Tenants of RAP rental units in areas
28 designated prior to July 1, 1977 may petition for a

1 hearing where the landlord has noticed an increase
2 which exceeds the limitations set forth in Section
3 32.73 of the San Francisco Administrative Code.

4 After a vacancy has occurred in a RAP rental unit
5 in said areas, a new tenant of said unit may
6 petition for a hearing where the landlord has
7 demanded and/or received a rent for that unit which
8 exceeds the rent increase limitation set forth in
9 Section 32.73 of the San Francisco Administrative
10 Code. Burden of proof is on the landlord.

11 (c) Procedure for Landlord Petitioners.

12 (1) Filing. The request for arbitration must be
13 filed on a petition form prescribed by the board and
14 shall be accompanied by such supporting material as
15 the board shall prescribe, including but not limited
16 to, justification for the proposed rental increase.
17 All applications must be accompanied by a filing fee
18 of fifteen dollars (\$15) per rental unit, provided
19 that landlord in any consolidated case shall pay a
20 fee not to exceed \$150 in any single case, said fees
21 to be reviewed by the board and the cost analysis of
22 the first six (6) months be prepared and submitted to
23 the Board of Supervisors not later than seven (7)
24 months after the effective date of said amendment.

25 (2) Filing Date. The petition must be filed prior
26 to the mailing or delivering to the tenant or tenants
27 legal notice of the rental increase exceeding the
28 limitations as defined in Section 37.3.

(3) Effect of Timely Filing of Petition. Provided a completed petition is timely filed, that portion of the requested rental increase which exceeds the limitations set forth in Section 37.3 and has not been certified as a justifiable increase in accordance with Section 37.7 is inoperative until such time as the hearing officer makes findings of fact at the conclusion of the arbitration hearing.

(4) Notice to Parties. The board shall calendar the petition for hearing before a designated hearing officer and shall give written notice of the date to the parties at least ten (10) days prior to the hearing.

(d) Procedure for Tenant Petitioners.

(1) Filing. The request for arbitration must be filed on a petition form prescribed by the board and must be accompanied by such supporting material as the board shall prescribe, including but not limited to, a copy of the landlord's notice of rent increase. If the tenant petitioner has received certification findings regarding his rental unit in accordance with 37.7, such findings must accompany the petition. If the tenant petitioner has received a notification from the Chief Administrative Officer with respect to base rent and amortization of a RAP loan, such notification must accompany the petition. All applications must be accompanied by a filing fee of ten dollars (\$10); provided, however, the fee

1 shall be waived for an individual who files an
2 affidavit under penalty of perjury stating that he or
3 she is an indigent person who does not have and
4 cannot obtain the money to pay the filing fee without
5 using money needed for the necessities of life. A
6 tenant may deduct the ten dollar (\$10) filing fee
7 from the rent where the tenant prevails at the
8 hearing.

9 (2) Notice to Parties. The board shall calendar the
10 petition for hearing before a designated hearing
11 officer and shall give written notice of the date to
12 the parties at least ten (10) days prior to the
13 hearing. Responses to a petition for hearing may be
14 submitted in writing.

15 (e) Hearings.

16 (1) Time of Hearing. The hearing must be held
17 within forty-five (45) days of the filing of the
18 petition. The level of housing services provided to
19 tenants' rental units shall not be decreased during
20 the period between the filing of the petition and the
21 conclusion of the hearing.

22 (2) Consolidation. To the greatest extent possible,
23 hearings with respect to a given building shall be
24 consolidated.

25 (3) Conduct of Hearing. The hearing shall be
26 conducted by a hearing officer designated by the
27 board. Both parties may offer such documents,
28 testimony, written declarations or other evidence as

1 may be pertinent to the proceedings. A record of the
2 proceedings must be maintained for purposes of appeal.

3 (4) Determination of the Hearing Officer: Rental
4 Units. Based upon the evidence presented at the
5 hearing and upon such relevant factors as the board
6 shall determine, the hearing officer shall make
7 findings as to whether or not the landlord's proposed
8 rental increase exceeding the limitations set forth
9 in Section 37.3 is justified or whether or not the
10 landlord has effected a rent increase through a
11 reduction in services or has failed to perform
12 ordinary repair and maintenance as required by state
13 or local law. In making such findings, the hearing
14 officer shall take into consideration the following
15 factors:

16 (A) Increases or decreases in operating and
17 maintenance expenses, including, but not limited
18 to, real estate taxes, sewer service charges,
19 janitorial service, refuse removal, elevator
20 service, security system, and debt service;
21 provided however, when a unit is purchased after
22 the effective date of this ordinance, and this
23 purchase occurs within two (2) years of the date of
24 the previous purchase, consideration shall not be
25 given to that portion of increased debt service
26 which has resulted from a selling price which
27 exceeds the seller's purchase price by more than
28 the percentage increase in the "Consumer Price

1 Index for All Urban Consumers for the San
2 Francisco-Oakland Metropolitan Area, U.S.
3 Department of Labor" between the date of previous
4 purchase and the date of the current sale, plus the
5 cost of capital improvements or rehabilitation work
6 made or performed by the seller.

7 (B) The past history of increases in the rent for
8 the unit and the comparison of the rent for the
9 unit with rents for comparable units in the same
10 general area.

11 (C) Any findings which have been made pursuant to
12 Section 37.7 with respect to the unit.

13 (D) Failure to perform ordinary repair,
14 replacement and maintenance in compliance with
15 applicable state and local law.

16 (E) Any other such relevant factors as the board
17 shall specify in rules and regulations.

18 (5) Determination of the Hearing Officer:

19 RAP Rental Units.

20 (A) Rap Rental units in RAP areas designated prior
21 to July 1, 1977. The hearing officer shall make
22 findings as to whether or not the noticed or
23 proposed rental increase exceeds the rent increase
24 limitations set forth in Section 32.73 of the San
25 Francisco Administrative Code. In making such
26 findings, the hearing officer shall apply the rent
27 increase limitations set forth in Chapter 32 of the
28 San Francisco Administrative Code and all rules and

1 regulations promulgated pursuant thereto. The
2 hearing officer shall consider the evidence
3 presented at the hearing. The burden of proof
4 shall be on the landlord.

5 (B) Rap rental units in RAP areas designated on or
6 after July 1, 1977. The hearing officer shall make
7 findings with respect to rent increases exceeding
8 the limitations as set forth in Section 37.3 of
9 this chapter. In making such findings, the hearing
10 officer shall take into consideration the factors
11 set forth in subsection (4) above and shall
12 consider evidence presented at the hearing. Burden
13 of proof is on the landlord.

14 (6) Findings of Fact. The hearing officer shall
15 make written findings of fact, copies of which shall
16 be mailed to the parties within 30 days of the
17 hearing.

18 (7) Payment or Refund of Rents to Implement
19 Arbitration Decision. If the hearing officer finds
20 that all or any portion of the heretofore inoperative
21 rent increase is justified, the tenant petitioner
22 shall be ordered to pay all or a portion of that
23 cumulative amount to the landlord within five (5)
24 days of the mailing of the findings of fact or said
25 amount may be ordered added to future rents, or that
26 all or any portion of a heretofore operative rent
27 increase is not justified, the landlord shall be
28 ordered to pay that cumulative amount to the tenant

1 petitioner within five days of the mailing of the
2 findings of fact or said amount may be ordered offset
3 against future rents.

4 (8) Finality of Hearing Officer's Decision. The
5 decision of the hearing officer shall be final unless
6 the board vacates his decision on appeal.

7 (f) Appeals.

8 (1) Time and Manner. An appeal to the board from
9 the determination of the hearing officer may be made
10 within fifteen (15) days of the mailing of the
11 findings of fact. Each tenant appeal shall be
12 accompanied by a ten dollar (\$10) filing fee;
13 provided, however, the fee shall be waived for an
14 individual who files an affidavit under penalty of
15 perjury stating that he or she is an indigent person
16 who does not have and cannot obtain the money to pay
17 the filing fee without using money needed for the
18 necessities of life. Each landlord appeal shall be
19 accompanied by a ten dollar (\$10) per unit filing
20 fee. The appeal shall be in writing and must state
21 why appellant believes there was either error or
22 abuse of discretion on the part of the hearing
23 officer. The filing of an appeal will not stay the
24 effect of the hearing officer's decision.

25 (2) Record on Appeal. Upon receipt of an appeal,
26 the entire administrative record of the matter,
27 including the appeal, shall be filed with the board.

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(3) Appeals. The board shall, in its discretion, hear appeals. In deciding whether or not to hear a given appeal, the board shall consider, among other factors, fairness to the parties, hardship to either party, and promoting the policies and purposes of this chapter, in addition to any written comments submitted by the hearing officer whose decision is being challenged. The board may also review other material from the administrative record of the matter as it deems necessary. A vote of three (3) members shall be required in order for an appeal to be heard.

(4) Remand to Hearing Officer without Appeal

Hearing. In those cases where the board is able to determine on the basis of the documents before it that the hearing officer has erred, the board may remand the case for further hearing in accordance with its instructions without conducting an appeal hearing. Both parties shall be notified as to the time of the re-hearing, which shall be conducted within thirty (30) days of remanding by the board. In those cases where the board is able to determine on the basis of the documents before it that the hearing officer's findings contain numerical or clerical inaccuracies, or require clarification, the board may continue the hearing for purposes of re-referring the case to said hearing officer in order to correct the findings.

(5) Time of Appeal Hearing; Notice to Parties.

Appeals accepted by the board shall be heard within forty-five (45) days of the filing of an appeal. Within thirty (30) days of the filing of an appeal, both parties shall be notified in writing as to whether or not the appeal has been accepted. If the appeal has been accepted, the notice shall state the time of the hearing and the nature of the hearing. Such notice must be mailed at least ten (10) days prior to the hearing.

(6) Appeal Hearing; Decision of the Board. At the appeal hearing, both appellant and respondent shall have an opportunity to present oral testimony and written documents in support of their positions.

After such hearing and after any further investigation which the board may deem necessary the board may, upon hearing the appeal, affirm, reverse or modify the hearing officer's decision or may remand the case for further hearing in accordance with its findings. The board's decision must be rendered within forty-five (45) days of the hearing and the parties must be notified of such decision.

(7) Notification of the Parties. In accordance with item (6) above, parties shall receive written notice of the decision. The notice shall state that this decision is final.

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1 [Sec. 37.9 Amended by Ord.

effective November 19, 1984]

2 Section 37.9. Evictions. Notwithstanding Section 37.3, this
3 section shall apply as of August 24, 1980, to all landlords and
4 tenants of rental units as defined in Section 37.2(o).

5 (a) A landlord shall not endeavor to recover possession
6 of a rental unit unless:

7 (1) The tenant has failed to pay the rent to
8 which the landlord is lawfully entitled under the
9 oral or written agreement between the tenant and
10 landlord or habitually pays the rent late or gives
11 checks which are frequently returned because there
12 are insufficient funds in the checking account; or

13 (2) The tenant has violated a lawful obligation
14 or covenant of tenancy other than the obligation
15 to surrender possession upon proper notice and
16 failure to cure such violation after having
17 received written notice thereof from the landlord;
18 or

19 (3) The tenant is committing or permitting to
20 exist a nuisance in, or is causing substantial
21 damage to, the rental unit, or is creating a
22 substantial interference with the comfort, safety
23 or enjoyment of the landlord or other tenants in
24 the building, and the nature of such nuisance,
25 damage or interference is specifically stated by
26 the landlord in the writing as required by Section
27 37.9(b); or

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- (4) The tenant is using or permitting a rental unit to be used for any illegal purpose; or
 - (5) The tenant, who had an oral or written agreement with the landlord which has terminated, has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement provided that such terms do not conflict with any of the provisions of this chapter; or
 - (6) The tenant has, after written notice to cease, refused the landlord access to the rental unit as required by state or local law; or
 - (7) The tenant holding at the end of the term of the oral or written agreement is a subtenant not approved by the landlord; or
 - (8) The landlord seeks to recover possession in good faith, without ulterior reasons and with honest intent, for the landlord's use or occupancy as his or her principal residence, or for the use and occupancy as the principal residence of the landlord's children, parents, grandparents, grandchildren, brother or sister, or the landlord's spouse or the spouses of such relations, for a period of at least 12 continuous months. For purposes of this subsection, the term landlord shall be defined as an owner of record of

1 at least 10% interest in the property. A landlord
2 may not recover possession under this subsection
3 if a comparable unit in the building is already
4 vacant and available, or if such a unit becomes
5 vacant and available during the period of the
6 notice terminating tenancy. If a comparable unit
7 does become vacant and available during said
8 notice period, the landlord shall rescind the
9 notice to vacate. It shall be rebuttably presumed
10 that the landlord has not acted in good faith if
11 the owner or relative for whom the tenant was
12 evicted does not move into the unit and occupy
13 said unit for a minimum of 12 continuous months; or

14 (9) The landlord seeks to recover possession in
15 good faith in order to sell the unit in accordance
16 with a condominium conversion approved under the
17 San Francisco subdivision ordinance and does so
18 without ulterior reasons and with honest intent; or

19 (10) The landlord seeks to recover possession in
20 good faith in order to demolish or to otherwise
21 permanently remove the rental unit from housing
22 use and has obtained all the necessary permits on
23 or before the date upon which notice to vacate is
24 given, and does so without ulterior reasons and
25 with honest intent; or

26 (11) The landlord seeks in good faith to remove
27 temporarily the unit from housing use in order to
28 be able to carry out capital improvements or

1 rehabilitation work and has obtained all the
2 necessary permits on or before the date upon which
3 notice to vacate is given, and does so without
4 ulterior reasons and with honest intent. Any
5 tenant who vacates the units under such
6 circumstances shall have the right to reoccupy the
7 unit at the prior rent adjusted in accordance with
8 the provisions of this chapter. The tenant will
9 vacate the unit only for the minimum time required
10 to do the work. In addition to the above, no
11 landlord shall endeavor to recover possession of
12 any unit subject to a RAP loan as set forth in
13 Section 37.2(k) of this chapter except as provided
14 in Section 32.69 of the San Francisco
15 Administrative Code; or

16 (12) The landlord seeks to recover possession in
17 good faith in order to carry out substantial
18 rehabilitation, as defined in Sec. 37.2(q), and
19 has obtained all the necessary permits on or
20 before the date upon which notice to vacate is
21 given, and does so without ulterior reasons and
22 with honest intent. Notwithstanding the above, no
23 landlord shall endeavor to recover possession of
24 any unit subject to a RAP loan as set forth in
25 Section 37.2(k) of this chapter except as provided
26 in Section 32.69 of the San Francisco
27 Administrative Code.

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1 (b) A landlord who resides in the same rental unit with
2 his or her tenant may evict said tenant without just cause as
3 required under subsection (a) above.

4 (c) A landlord shall not endeavor to recover possession of
5 a rental unit unless at least one of the grounds enumerated in
6 subsections (a) or (b) above is the landlord's dominant motive
7 for recovering possession and unless the landlord informs the
8 tenant in writing on or before the date upon which notice to
9 vacate is given of the grounds under which possession is sought
10 and that advice regarding the notice to vacate is available from
11 the Residential Rent Stabilization and Arbitration Board, before
12 endeavoring to recover possession.

13 (d) No landlord may cause a tenant to quit involuntarily
14 or threaten to bring any action to recover possession, or
15 decrease any services, or increase the rent, or take any other
16 action where the landlord's dominant motive is retaliation for
17 the tenant's exercise of any rights under the law. Such
18 retaliation shall be a defense to any action to recover
19 possession. In an action to recover possession of a rental unit,
20 proof of the exercise by the tenant of rights under the law
21 within 6 months prior to the alleged act of retaliation shall
22 create a rebuttable presumption that the landlord's act was
23 retaliatory.

24 (e) It shall be unlawful for a landlord or any other
25 person who willfully assists the landlord to endeavor to recover
26 possession or to evict a tenant except as provided in Sec.
27 37.9(a) and (b). Any person endeavoring to recover possession of
28 a rental unit from a tenant or evicting a tenant in a manner not

1 provided for in Sec. 37.9(a) or (b) without having a substantial
2 basis in fact for the eviction as provided for in Sec. 37.9(a)
3 shall be guilty of a misdemeanor and shall be subject, upon
4 conviction, to the fines and penalties set forth in Sec. 37.10.
5 Any waiver by a tenant of rights under this chapter shall be void
6 as contrary to public policy.

7 (f) Whenever a landlord wrongfully endeavors to recover
8 possession or recovers possession of a rental unit in violation
9 of Sections 37.9 and/or 37.10 as enacted herein, the tenant or
10 board may institute a civil proceeding for injunctive relief,
11 money damages of not less than three times actual damages, and
12 whatever other relief the court deems appropriate. The
13 prevailing party shall be entitled to reasonable attorney's fees
14 and costs pursuant to order of the court. The remedy available
15 under this subsection shall be in addition to any other existing
16 remedies which may be available to the tenant or the board.

17 [Sec. 37.10 Amended by Ord. #20-84 effective February 19, 1984].

18 Sec. 37.10 A. Misdemeanors. It shall be unlawful for a
19 landlord to increase rent or rents in violation of the decision
20 of a hearing officer or the decision of the board on appeal
21 pursuant to the hearing and appeal procedures set forth in
22 Section 37.8 of this chapter. It shall further be unlawful for a
23 landlord to charge any rent which exceeds the limitations of this
24 chapter. Any person who increases rents in violation of such
25 decisions or who charges excessive rents shall be guilty of a
26 misdemeanor. Any person convicted of a misdemeanor hereunder
27 shall be punishable by a fine of not more than \$2,000.00 or by
28 imprisonment in the County Jail for a period of not more than six

(6) months, or by both. Each violation of the decision of a hearing officer or the decision of the board on appeal as set forth above shall constitute a separate offense.

[Sec. 37.11 Amended by Ord. #20-84 effective February 19, 1984].

Sec. 37.11 A. Civil Actions. Whenever a landlord charges a tenant a rent which exceeds the limitations set forth in this chapter, or retaliates against a tenant for the exercise of any rights under this chapter, the tenant may institute a civil proceeding for money damages. The prevailing party in any civil action brought under this section shall be entitled to recover reasonable attorneys' fees and costs. The remedy available under this section shall be in addition to any other existing remedies which may be available to the tenant.

Section 2. The San Francisco Addministrative Code is hereby amended bby renumbering Section 37.14, Severability, to Section 37.12, reading as follows:

Sec. 37.12. Severability. If any provision of clause of this chapter or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other chapter provisions, and clauses of this chapter are declared to be severable.

Section 3. Section 37.3, 37.10, 17.11, and 37.13 of the San Francisco Administrative Code are hereby repealed.

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2 APPROVED AS TO FORM:
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GEORGE AGNOST, City Attorney

By _____

Deputy City Attorney

[Feb. 26, 1985)

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